

SEVENTEENTH DAY.

SENATE CHAMBER,
 TWENTY-SECOND LEGISLATURE,
 Austin, Friday, April 1, 1892. }

Senate met pursuant to adjournment.

President Pro Tem Frank in the chair.

Roll called.

Quorum present.

The following Senators answering to their names:

PRESENT—31.

Atlee,	Kimbrough,
Burney,	Lubbock,
Clark,	McKinney,
Clemens,	Mott,
Crane,	O'Neal,
Carter,	Potter,
Cranford,	Page,
Finch,	Pope,
Frank,	Seale,
Glasscock,	Searcy,
Garwood,	Simkins,
Harrison,	Stephens,
Ingram,	Sims,
Johnson,	Tyler,
Kearby,	Townsend.
	Weisiger.

Prayer by the Chaplain Dr. Smoot.

Pending the reading of the Journal, on motion of Senator Stephens the further reading of the same was dispensed with.

The following message was received from the House:

House of Representatives, }
 Austin, April 1, 1892. }

Hon. Geo. C. Pendleton, President of the Senate:

Sir—I am directed by the House to inform you of the passage of the following bills:

Senate Bill No. 9. "An act making an appropriation to pay the bonded debt of the State of Texas now held by individuals and falling due March 1st and April 1st, 1892."

Also. House Bill No. 47. "An act to repeal section 17 of 'An act to provide for the speedy and efficient enforcement of the liens of mechanics, contractors, builders, laborers and ma-

terial men and to repeal all existing laws and parts of laws in conflict with this act, approved April 5, 1892.'"

Also. House Bill No. 20. "An act to amend article 2899 of the revised civil statutes of the State of Texas as amended by an act entitled 'An act to amend article 2899 of the revised civil statutes of the State of Texas in relation to the recovery of damages for injuries resulting in death, passed by the Twentieth Legislature and approved March 25th, 1887.'"

Also. Senate Bill No. 27. "An act to organize and establish the Twenty-first judicial district, to fix the times of holding courts therein and to repeal all laws and parts of laws in conflict therewith.'"

Also. Substitute House Bill Nos. 6, 7, 9, 25 and 39. "An act to apportion the State of Texas into senatorial districts and to repeal article 13, chapter 13 of the general laws of the State, approved May 3, 1882, and article 13 of title 4 of the revised civil statutes."

GEO. W. FINGER,
 Chief Clerk, House of Representatives,

On motion of Senator Glasscock, Senate bill No. 21 was made the special order for Monday next after the morning call, and from day to day until disposed of.

On motion of Senator Garwood, the special order for this morning, the report of the committee on the investigation of the cause of Jay Gould vs. the International Railroad be postponed until to-morrow morning after the call and from day to day until disposed of.

On motion of Senator Kearby, Senate Bill No. 20 was made the special order for Tuesday after the morning call, and from day to day until disposed of.

The pending business being Senate Bill No. 18, entitled "An act to divide the State of Texas into three supreme judicial districts and to provide for and establish a court of civil appeals in each of said districts, and to prescribe the times for holding court in each of said districts."

On second reading.

Senator Stephens offered the following amendment:

Add to section 6 the following: "Red River, Bowie, Lamar, Delta, Hopkins, Hunt, Fannin, Grayson, Collin, Dallas, Rockwall, Hill, Ellis, Bosque, Johnson, Tarrant, Denton, Cooke,

Wise, Montague, Parker, Hood, Somervell, Erath, Hamilton, Navarro, McClellan, Limestone, Kaufman, Borden, Coke, Crosby, Randal, Glasscock, Comanche, Howard, Irion, McCulloch, Eastland, Palo Pinto, Jack, Clay, Wichita, Archer, Young, Stevens, Brown, Coleman, Callahan, Shackelford, Throckmorton, Baylor, Wilbarger, Greer, Hardeman, Foard, Knox, Haskell, Jones, Taylor, Runnels, Concho, Tom Green, Nolan, Fisher, Stonewall, King, Cottle, Childress, Collingsworth, Wheeler, Hemphill, Lipscomb, Ochiltree, Roberts, Gray, Donley, Hall, Motley, Dickens, Kent, Garza, Scurry, Mitchell, Upton, Midland, Martin, Dawson, Lynn, Lubbock, Hale, Lamb, Swisher, Armstrong, Potter, Carson, Hutchinson, Hansford, Sherman, Moore, Brisco, Floyd, Hockley, Terry, Gaines, Andrews, Ector, Crane, Ward, Winkler, Loving, Reeves, Dallam, Hartley, Oldham, Deaf Smith, Parmer, Bailey, Cochran, and Yoakum.

Senator Kearby offered to amend by adding the county of Van Zandt, and Senator O'Neal by adding the counties of Cass, Marion, Morris, Camp and Titus, both of which were accepted by Senator Stephens.

Pending action on motion of Senator Page, the Senate went into a committee of the whole, to consider the amendments and the bill.

Senator Page in the chair.

IN SENATE.

President pro tem, Frank, in the chair. The committee rose and reported progress and asked leave to sit again at 3 o'clock today.

The following messages were received from the House:

Hall House of Representatives, }
Twenty-Second Legislature. }
Austin, April 1, 1892. }

Hon. Geo. C. Pendleton, President of the Senate:

Sir—I am directed by the House to inform you of the passage of the following bill:

Substitute House bill Nos. 6, 7, 9, 25, and 39. An act to apportion the State of Texas into representative districts and fix the number of representatives thereof, and to repeal article 13, chapter 13, of the general laws of the State, approved May 3, 1883, and article 13, title 4, of the revised civil statutes of the State." Respectfully,

Geo. W. Finger,
Chief Clerk House of Representatives.
Hall House of Representatives, }
Twenty-Second Legislature, }
Austin, April 1, 1892. }

Hon. Geo. C. Pendleton, President of the Senate:

Sir—I am directed to inform you that the House has passed the following bill:

Substitute House bill Nos. 1 26 and 29. „An act to apportion the State of Texas into Congressional districts, and to repeal all laws and parts of laws in conflict herewith." Respectfully,

Geo. W. Finger,
Chief Clerk House of Representatives.
House Bills Referred.

Senate House bill No. 6, 7, 9, 25 and 29 entitled an Act to apportion the State of Texas into senatorial districts and to repeal article 13 chapter 13 of the general laws of the state, approved May 3d, 1882, and article 13 of title 4 of the revised civil statutes.

Read first time and referred to committee on apportionment.

House bill No. 20 entitled an act to amend article 2899 of the revised civil statutes of the State of Texas as amended by an act entitled an act to amend article 2899 of the revised civil statutes of the State of Texas in relation to the recovery of damages for injuries resulting in death, passed by the Twentieth Legislature and approved March 25th, 1887.

Read first time and referred to judiciary committee No. 1.

House bill No. 47 entitled "An act to repeal section 17 of an act to provide for the speedy and efficient enforcement of the liens of mechanics, contractors, builders, laborers and material men, and to repeal all existing laws and parts of laws in conflict with this act." Approved April 5, 1889.

Read first time and referred to judiciary committee No. 1.

Substitute house bill Nos. 1, 26 and 29, entitled "An act to apportion the state of Texas into congressional districts and to repeal all laws and parts of laws conflicting herewith."

Read first time and referred to committee on apportionment.

Substitute House Bills Nos. 6, 7, 9, 25 and 39, entitled "An act to apportion the State of Texas into representative districts and fix the number of representatives thereof, and to repeal article 13, chapter 13 of the general laws of the state, approved May 3, 1882, and article 13, title 4 of the revised civil statutes of the state."

Read first time and referred to Committee on Apportionment.

The Chair gave notice of signing and signed in open Senate, after its title had been read.

Senate Bill No. 27. "An act to organize and establish the Twenty-first judicial district, to fix the times for holding courts therein, and to repeal all laws and parts of laws in conflict herewith."

The following message was received from His Excellency, the Governor:

EXECUTIVE OFFICE, }

AUSTIN, Tex., March 30, 1892. }

To the Honorable Senate of the State of Texas:

Owing to my failure to send in for your approval and confirmation within the first ten days of this session, the official appointments made during your recess, I hereby respectfully request the privilege of withdrawing all nominations made this month to your honorable body, for further consideration and executive action.

Respectfully,

J. S. HOGG, Governor.

Senator Crane moved that the request of the Governor be granted.

Senator Pope moved to amend—"that the request be granted except in the case of the appointments, which had been already confirmed," which amendment was accepted by Senator Crane, and adopted.

On motion of Senator Page the information contained in the Governor's message of yesterday was ordered printed in the Journal, which is as follows:

Transcript of the correspondence on file in the Governor's office in re. the matter of public weighers at Galveston.

AUSTIN, Tex., Nov. 23, 1891.

Messrs. Wheeler & Rhodes, Galveston, Tex.—Confidential.

DEAR SIRS: The enclosed published letter of the 13th by J. E. Smith (which I have just received) explains itself, to the effect that a cotton weigher of your city "knocked off" 17 pounds per bale from the true weight of his cotton. Please let me know if this is even probably true, and if the weigher is one of my appointees and his name. In haste, yours,

J. S. HOGG, Governor.

The letter above referred to is as follows: GALVESTON, Nov. 13. To the News.

I notice from several papers kicking of merchants about the weights of cotton "below," as we call it, or, more properly, at Galveston. I had a few days ago eleven bales of cotton sold there, and on that number I lost 190 pounds, an average of 17 3-11 pounds to the bale. This you know is too

much loss. My cotton was weighed on new tested scales and by a correct weigher—one who had no interest in the cotton, nor knew at the time who would buy it. When we take into consideration the unusually dry fall throughout the country, and also the heavy atmosphere at Galveston, we are forced to believe that there is a great wrong somewhere, and the merchants nearly all over the state place the wrong at the weighers in Galveston.

I have shipped 560 bales, and if this loss continues you can readily see my loss. Now, if you can call the cotton exchange's attention to this matter and they will take proper steps to have the wrong righted, you will confer a blessing on every retail merchant in east Texas. Cotton is subject to atmospheric influences, and cotton factors of Galveston have used that as a lever to get shipments. But this season the influences have been reversed and it seems the lower the price the less staple weighs. Hoping you will call attention of the board of trade and have this matter corrected, I am Yours truly, J. E. SMITH.

GALVESTON, TEX., Nov. 25, 1891.

Hon. James S. Hogg, Governor of Texas.

Dear Sir—Your esteemed favor of the 24th (23rd) to hand we carefully note contents. It is impossible to look into this matter on the very meager details contained in the communication from Mr. Smith to some newspaper whose clipping you enclose to us. We have had a conference this evening with the president of the Chamber of Commerce, and he recognizes that this is a matter which very closely and nearly concerns the city of Galveston and the business interests of this city.

The president of the Chamber of Commerce is Mr. W. F. Ladd, he is our close personal friend and client of many years standing. He assures us that he will be delighted to sift this matter to the very bottom and that he will spare no expense in doing so, and exposing the weigher who has been guilty of the perpetration of such a fraud as this. We have to request that you will have your private secretary write to Mr. Smith, securing from him full data in relation to the whole matter. Ask him to give the time that the cotton was weighed. Give the marks of the cotton. Give us the name of the cotton factor to whom the

cotton was shipped, time when it was weighed and every particular in relation to it.

So soon as you are possessed of this information let us have it, and we will see that this matter is sifted to the very bottom. In the mean time we are ready to serve you in any way that may be in our power.

Very truly, your friends,
WHEELER & RHODES.

AUSTIN, Tex., Dec. 2, 1891.

Messrs. Wheeler & Rhodes, Galveston, Texas:

Dear Sirs—The complaints made by J. E. Smith about the cotton swindles alleged by him to have been committed in Galveston, referred to by your favor of the 25th ult., appeared first through the columns of the Galveston News. The clipping I sent you and which you returned, was taken from an interior paper.

I am unable to answer further as to Mr. Smith's location, but hope his address may be found on the hotel registers at Galveston about the 13th of last month, or through the News office.

Rumors like this complaint have been circulated and have reached me from Crockett and other places that may, at least, be damaging to the commerce of Galveston. As they affect the integrity perhaps of the appointees made by myself, I am anxious to know the truth of them so that I can intelligently act in the premises.

With thanks for what you have already done, and with best wishes, I am, very truly, etc.,

J. S. HOGG.

Mr. J. E. Smith, Crockett, Texas:

Dear Sir—Some weeks ago a communication signed by a person of your name and sent to the Galveston News, complaining of the false weighing of cotton, was enclosed to me by a friend to public interest. I immediately sent the published letter to Messrs. Wheeler & Rhodes, attorneys, of Galveston, with the request that they investigate the matter complained of. They have inquired of me as to the address of the author of the letter for the purpose of acquiring information in the premises. A gentleman from Crockett, in conversation

with me last week, stated that probably you were the men. If this is so, I hope you will have the kindness to send me such information as you may have that will lead to the establishment of your charges.

Those cotton weighers at Galveston were appointed by me on strong recommendations from citizens of that city. If they are guilty of fraudulent practices, and I can get in possession of the facts thereof, the public shall be protected from further wrongs.

Awaiting an early reply, I have the honor to be, Your obed't serv't,

J. S. HOGG.

AUSTIN, Texas, Jan., 4, 1892.

Messrs. Wheeler & Rhodes, Galveston, Texas.

Dear Sirs: Enclosed herewith I hand you copy of a letter addressed by myself to J. E. Smith, who wrote the article in the News complaining of the false weighing of cotton at Galveston, and his reply thereto dated the 31st ult.

I am not altogether satisfied with the apparent inconsistency of his published letter with the one in answer to mine. The charge is a serious one, affecting the public interest deeply, and I am not content for it to stand uninvestigated.

If you are in condition to perform this service gratuitously to the public out of patriotic pride, I shall be glad enough. However, if you prefer, I would be glad enough to make arrangements by which the State can pay you a reasonable fee for the service.

As Mr. Smith has made the charge in the published letter, which he does not sufficiently support in the one to me, I am inclined to believe that he should be given an opportunity of either retracting or of supporting his charge. When my signature is placed on the appointment or commission of a public official I want to know that it is not disgraced by his dereliction of duty or perfidy in the service.

If, after a preliminary examination, you feel that an action to remove those parties or a prosecution for their false weights, becomes unnecessary or improper, I shall be glad for you candidly to say so to me. Otherwise I hope to negotiate with you for your services. Your obedient servant,

J. S. HOGG.

OFFICE OF JOHN E. SMITH & SON,)
 GENERAL MERCHANDISE,)
 Groveton, Texas, Dec. 31, 1881.)
 To His Excellency, Gov. J. S. Hogg,
 Austin:

DEAR SIR—Your letter of December 15, sent me this morning by my friend, Maj. J. C. Wooters, of Crockett, and in reply suppose you allude to the letter from me to the Galveston News some time ago, which was dated Galveston instead of Groveton (typographical error.) In that letter I charge that there was too much difference in weights, which resulted in great loss to interior shippers. Messrs. Belo & Co. then addressed me a letter which I answered fully and which from some cause they failed to publish. But I went to Galveston myself and had some little of my cotton weighed, and what was weighed held out as well as usual. But previous to that time my cotton had lost in weight fearfully, and I only wrote the letter referred to in order to call the Cotton Exchange's attention to this matter, and not to reflect on any one as Messrs. Belo & Co. inferred. I have only sold about 140 bales out of 850, but what I have sold I can give you the weight here and there of each bale. Mr. J. B. Turner and Messrs. Hazard & Platt made a statement of their losses which appeared in the Houston Post, and it showed about one bale in forty clear loss.

We took precaution to get first-class scales and have them tested and a competent man who was sworn and who did not buy or sell and had no motive to prompt him, and his weight lost so fearfully that I had Messrs. Focke, Wilkins & Lang to buy him a new beam, and had Mr. Webster, inspector of public weights, to test and send certificate, and the result was almost the same. I do not accuse or personate any one, but I fully believe there is a wrong somewhere or was, but also believe investigations have had a good and wholesome effect, as I do not hear of so much loss now as heretofore.

Mr. Sam Burk weighs my cotton, and what he weighed while I was there was satisfactory.

Should Messrs. Wheeler & Rhodes want bale for bale with weights here and there of myself, J. B. Turner and Hazard & Platt, we can give them to him, but as I still have my cotton in store and expect to see it weighed

myself I have no personal kick to make. But I am at your command in matter for correction of my wrong.

Yours truly,
 JNO. E. SMITH.

GALVESTON, Tex., Dec. 7, 1891.

Hon. Walter Gresham, City:

Dear Sir—I beg to hand you within communication with request that you kindly present same to Governor Hogg. The nature of the case has been explained to you, and you will confer a favor on the factors of your city if, in person, you will give the Governor any light or information in your power for his guidance.

Thanking you very much, I am etc.,
 W. L. Moody.

Above referred to enclosure is as follows:

GALVESTON, Tex., Dec. 7 1891.

His Excellency Hon. J. S. Hogg, Governor, Austin, Tex.:

Sir—Recently there have been made statements, and publication given them in some of the newspapers of the interior, charging that cotton is not fairly weighed by the public weighers at this port. We are led to believe that these charges are hurtful to our port and to us personally in our business. The public weighers are appointed by the Governor of the State, are under bond and oath, and if at fault may be held responsible.

Remedies of this character are perhaps impracticable and in the mean time the injury to our port may continue. The matter we deem to be of too serious a character to justify us as cotton factors to remain indifferent. Our interest is identical in this respect with the owners or shippers of the cotton, and representing them as well as ourselves we feel warranted in inviting your attention to the complaints and charges, and do respectfully ask your honor, at the earliest day practicable, to investigate the same.

Should any of our public weighers be found incompetent or criminal, he or they should be so found, and if not should be exonerated.

A desire to protect the interests of our patrons and maintain the fair

name of our port is our warrant for this application to your honor.

Respectfully,

J. S. Rogers,
Focke, Wilkens & Lange,
Name indecipherable,
Mensing Bros. & Co.,
W. L. Moody & Co.,
J. D. Skinner & Son,
Lammers & Flint,
Jno. D. Rogers & Co.,
Wallis, Landes & Co.,
H. Kempner,
Leon & H. Blum.
P. J. Willis & Bro.

Office of Wheeler & Rhodes, }
GALVESTON, Texas, March 23, 1892. }
Hon. James S. Hogg, Governor of
Texas:

Dear Sir—We received a few days ago a letter from your stenographic clerk, Mr. Spivey, requesting us to return to you the letters relating to the cotton weight matter of Mr. J. E. Smith of Groveton, Texas. We were unable to put our hands on the papers until to-day, as we had submitted the whole matter to the Galveston Cotton Exchange, with the request that they make the investigation, and offering to furnish from this office any legal assistance they might require. This we proposed to furnish the State without any charge.

You were kind enough to say that you would pay us a fee if we saw proper to charge one. We regret to say that no satisfactory effort to make this investigation so far has been made by the Cotton Exchange, although we were assured at the time we lodged the matter with them that they would investigate it to the very bottom, at least we had reason to believe that such was their purpose.

We enclose herewith the communication made by the Committee on Trade of the Cotton Exchange, for your information, together with all the papers sent us accompanying your letter of Jan. 4.

With assurance of our willingness to serve you at all times, we are,

Very truly your friends,
WHEELER & RHODES.

GALVESTON COTTON EXCHANGE }
Galveston, Tex., March 15, 1892. }

Dear Sir—With reference to the communication of his excellency, Gov. L. (J.) S. Hogg addressed to Messrs.

Wheeler & Rhodes, on the subject of cotton weights and alleged discrepancies between interior and Galveston weights of sworn public weighers at either end, your committee, in the absence of specific charges, is of the opinion that there is no basis for any investigation on the part of the Cotton Exchange.

Your committee thinks that cotton should be weighed immediately on arrival, and the weights be returned to the shipper in the interior, so that in case of unusual discrepancy ample time remains for investigation and correction of mistakes that may have occurred at either end.

Respectfully submitted,

COMMITTEE ON TRADE.

Robt. Bornefeld, Chairman.

Mr. Julius Runge,
President Galveston Cotton Exchange.

EXECUTIVE OFFICE, }

Austin, Tex., March 31, 1892. }

I, R. B. Levy, private secretary, hereby certify that the above and foregoing nine pages of type writing is a true and correct transcript of all papers, letters and documents on file in this office in reference to the alleged incorrect weighing of cotton at Galveston, Tex.

R. B. LEVY,
Private Secretary

On motion of Senator Pope the Senate adjourned until 3 o'clock p. m.

AFTERNOON SESSION.

ate met pursuant to adjournment. President Pro Tem Frank in the chair. Roll called quorum present the following Senators answered to their names:

PRESENT—20.

Atlee,	Lubbock.
Burney,	McKinney,
Clark,	Mott,
Clemens,	O'Neal,
Crane,	Potter,
Carter,	Page,
Cranford,	Pope,
Finch,	Seale,
Frank,	Searcy,
Glasscock,	Simkins,
Harrison,	Stephens,
Ingram,	Sims,
Johnson,	Tyler,
Kearby,	Townsend,
Kimbrough,	Weisiger.

Senator Stephens moved to suspend pending business and take up Senate bill No. 31.

Adopted.

Senate bill No. 31, entitled "An act to reorganize the 39th, 43d, 46th, 47th and 50th judicial districts, and to create the 54th judicial district of the State of Texas, to fix the time of holding courts therein, to provide for the appointment and election of a judge and district attorney in the 54th judicial district, and to repeal all laws in conflict herewith."

On second reading.

Bill read with favorable committee report.

Bill was ordered engrossed.

Senator Stephens moved that the constitutional rule requiring bills to be read in each House on three several days be suspended and that the bill be put upon its third reading and final passage.

Adopted by the following vote:

YEAS—25.

Atlee,	Lubbock,
Burney,	McKinney,
Crane,	Mott,
Carter,	Potter,
Cranford,	Page,
Finch,	Seale,
Frank,	Searcy,
Glasscock,	Stephens,
Garwood,	Sims,
Harrison,	Tyler,
Ingram,	Townsend,
Kearby,	Weisiger.
Kimbrough,	

NAYS—2.

Johnson, Simkins.

Bill read third time and passed.

YEAS—15.

Atlee,	Kimbrough,
Carter,	Lubbock,
Cranford,	Page,
Frank,	Seale,
Glasscock,	Searcy,
Garwood,	Stephens,
Harrison,	Townsend.
Ingram,	

NAYS—13.

Burney,	Mott,
Clark,	Potter,
Clemens,	Simkins,
Finch,	Sims,

Johnson,
Kearby,
McKinney,

Tyler,
Weisiger.

By permission the following report was presented:

COMMITTEE ROOM, }
Austin, April 1, 1892. }

Hon. Geo. C. Pendleton, President of the Senate:

Sir—Your Judiciary committee, No. 2, to whom was referred

House bill No. 21, being a bill to be entitled "An act to amend title 54, articles 2976, 2977, 2978, 2979, 2980 and 2981, of the revised statutes of the State of Texas, regulating the rate of interest and defining usury, and to add thereto article 2981a. To regulate the rate of interest and prevent usury and to repeal 'An act to be entitled an act to define and punish usury,' passed at the regular session of the Twenty-Second Legislature and all laws and parts parts of laws in conflict with the provisions of this act"

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do pass.

Tyler, Chairman.

On motion of Senator Johnson the Senate went into committee of the whole to consider Senate bill 18.

Senator Page in the chair.

IN SENATE.

President Pro Tem Frank in the chair.

Senator Page presented the following report which was adopted.

COMMITTEE ROOM, }
Austin, April 1, 1892. }

Hon. N. L. Frank, President Pro Tem of the Senate:

Sir—Your committee of the Whole Senate to whom was referred Substitute Senate bill No. 18, being a bill entitled "An act to divide the State of Texas into three supreme judicial districts and to provide for and establish a court of civil appeal in each of said districts, and to prescribe the times for holding court in each of said districts,"

Have had the same under consideration, and I am instructed to report the same back to the Senate with recommendation that it do pass, with the accompanying amendments.

Page, Chairman.

The amendments are as follows:

Amend section 5. That the counties of Panola, Shelby, Sabine, Newton, Orange, Jasper, San Augustine, Nacogdoches, Rusk, Angelina, Tyler, Hardin, Jefferson, Chambers, Liberty, San Jacinto, Walker, Trinity, Polk, Houston, Anderson, Henderson, Freestone, Leon, Madison, Grimes, Montgomery, Harris, Galveston, Victoria, Calhoun, Refugio, Goliad, Wharton, Milam, Robertson, Brazos, Bastrop, Burleson, Austin, Washington, Lee, Fort Bend, Brazoria, Fayette, Waller, Jackson and Colorado.

Add to Section 6 the following: Red River, Bowie, Lamar, Delta, Hopkins, Hunt, Fannin, Grayson, Collin, Dallas, Rockwall, Hill, Ellis, Bosque, Johnson, Tarrant, Denton, Cooke, Wise, Montague, Parker, Hood, Somervell, Erath, Hamilton, Navarro, McLennan, Limestone, Kaufman, Comanche, Eastland, Borden, Coke, Crosby, Randall, Glasscock, Howard, Irion, McCulloch, Palo Pinto, Jack, Clay, Wichita, Archer, Young, Stephens, Brown, Coleman, Calahan, Shackelford, Throckmorton, Baylor, Wilbarger, Greer, Hardeman, Foard, Knox, Haskell, Jones, Taylor, Runnels, Concho, Tom Green, Nolan, Fisher, Stonewall, King, Cottle, Childress, Collingsworth, Wheeler, Hemphill, Lipscomb, Ochiltree, Roberts, Gray, Donley, Hall, Motley, Dickens, Kent, Garza, Scurry, Mitchell, Upton, Midland, Martin, Dawson, Lynn, Lubbock, Hale, Lamb, Swisher, Armstrong, Potter, Carson, Hutchinson, Hansford, Sherman, Moore, Briscoe, Floyd, Hookley, Terry, Galnes, Andrews, Ector, Crane, Wood, Winkler, Loving, Reeves, Dallam, Hartley, Oldham, Deaf Smith, Parmer, Bailey, Cochran, Yoakum, Harrison, Stephens, Van Zandt, Franklin, Delta, Camp, Rains, Cass, Marion, Morris, Titus, Bell, Coryel, Lampasas, Hamilton, Mills, Wood, Upshur, Gregg, Smith.

Section 7. Read as follows: All the counties lying west of the First and south of the Second Supreme Judicial Districts shall constitute the Third Supreme Judicial District.

Substitute for section 11.

The near approach of the close of the called session and the imperative command of section 6, article 5 of the Constitution of the State of Texas to this Legislature as soon as practicable after the adoption of the said section (at the recent elections held in this State) to divide the State into not less than two nor more than three

Supreme Judicial Districts, and to establish a court of civil appeals in each of said districts and the fact that the supreme court and the court of appeals are not able to dispose of the business now on their dockets, and a great public necessity exists, that said courts of civil appeals should be organized and proceed to business as soon as possible, which creates a public necessity which requires the suspension of the constitutional rules requiring bills to be read on three several days be and the same is hereby suspended and this act take effect and be in force from and after the 15th day of August, 1892.

Substitute for Committee Amendment No. 9. Amend by striking out all of section 9 and the words all succeeding in line one section 10 and insert the word "the" before the word "terms" line 1 section 10 and all sections of bill be numbered consecutively.

Senator Sims offered the following amendment by striking out section 9 and insert in lieu thereof the following:

Sec. 9. That the first term of the court of civil appeals in each of said districts, to be held after the passage of this act, shall be held at the places herein provided for, respectively, and shall commence on the first Monday in September, A. D. 1892, and shall remain in session until the first Monday in July, A. D. 1893.

Senator Johnson made the point of order that the committee amendment on that subject had been adopted, and this being the original section stricken out by the committee it could not be considered.

Which was sustained by the chair.

Senator Sims moved to reconsider the vote by which section 9 of the bill was adopted. The motion prevailed.

Senator Carter offered the following: Strike out of section 5. "Harrison" and add Harrison to section 6. Adopted.

Senator Townsend offered the following: Amend by inserting the county of Colorado in the First district. Adopted.

Senator Sims offered the following: Amend by striking out all of section 9, and the words "all succeeding" in line 10 and insert the word "the" before the word "terms" line 1, section 10.

Senator Tyler offered the following:

Section 9. At the first term of the court of civil appeals in each of said districts to be held after the passage of this act, shall be held at the places

herein provided for, respectively, and shall commence on the first Monday in May A. D. 1892, and shall remain in session until the first Monday in July, 1892.

Substitute lost by the following vote:

YEAS—5.

Clemens,	Johnson,
Finch,	Searcy.
O'Neal,	

NAYS—23.

Atlee,	Mott,
Burney,	Potter,
Clark,	Page,
Crane,	Pope,
Frank,	Seale,
Glasscock,	Stephens,
Harrison,	Sims,
Ingram,	Tyler,
Kearby,	Townsend.
Lubbock,	Weisiger.
McKinney,	

Senator Simkins stated he was paired with Senator Garwood, if he were present he would vote aye, and he, Senator Simkins, would vote no.

Senator Johnson made the point of order that any amendment offered now could only be in the nature of a substitute to the part of the committee report under consideration.

Sustained by the chair.

The substitute by Senator Sims was read.

Senator Burney offered the following and asked that it be read:

Section 7. Third district to be composed of the counties of Nueces, San Patricio, Duval, Encinal, Webb, LaSalle, Dimmit, McMullen, Live Oak, Bell, Aransas, Calhoun, Maverick, Zavalla, Frio, Atascosa, Uvalde, Medina, Bexar, Bandera, Val Verde, Edwards, Kerr, Foley, Mason, Kimble, Gillespie, Kendall, Sutton, Slocker, Menard, Crockett, Pecos, Presidio, Jeff Davis, Buchel, Brewster, El Paso, Irion, San Saba, Concho, McCulloch, Llano, Burnet, Williamson, Travis, Gonzales, Lavaca, DeWitt, Hayes, Comal, Blanco, Guadalupe, Caldwell, Wilson, Karnes, Cameron, Kinney, Hidalgo, Starr, Zapata.

Senator Page moved the previous question on the amendments and the bill which was ordered.

Question being on the substitute offered by Senator Sims, it was adopted by the following vote:

YEAS—20.

Atlee,	Kimbrough,
Burney,	Lubbock,
Crane,	O'Neal,
Carter,	Potter,
Cranford,	Page,
Finch,	Seale,
Frank,	Stephens,
Glasscock,	Sims,
Ingram,	Townsend,
Kearby,	Weisiger.

NAYS—7.

Clark,	Mott,
Clemens,	Searcy,
Harrison,	Tyler.
Johnson,	

Senator Simkins paired with Senator Garwood; stated if the latter were present he would vote no and he, Senator Simkins, would vote aye.

Bill was ordered engrossed.

Senator Carter moved that the constitutional rule requiring bills to be read on three several days be suspended and the bill be put upon its third reading and final passage.

Adopted by the following vote:

YEAS—26.

Atlee,	Lubbock,
Burney,	Mott,
Clark,	O'Neal,
Crane,	Potter,
Carter,	Page,
Cranford,	Seale,
Finch,	Searcy,
Frank,	Simkins,
Glasscock,	Stephens,
Harrison,	Sims,
Ingram,	Tyler,
Kearby,	Townsend,
Kimbrough,	Weisiger.

NAYS—2.

Clemens,	Johnson.
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Bill read third time and passed by the following vote:

YEAS—24.

Atlee,	Lubbock,
Burney,	Mott,
Clark,	O'Neal,
Crane,	Potter,
Carter,	Page,
Cranford,	Seale,
Finch,	Searcy,

Frank,
Glasscock,
Ingram,
Kearby,
Kimbrough,

Stephens,
Sims.
Tyler,
Townsend,
Weisiger.

NAYS—2.

Clemens,

Johnson,

Senator Simkins, paired with Senator Garwood, would have voted yea and Senator Garwood nay.

Senator Atlee moved that house bill No. 21 be made special order for tomorrow morning, and from day to day until disposed of, and that the bill be spread upon the Journal of to-day.

The bill reads as follows:

House Bill No. 21. "An act to amend title 54, articles 2976, 2977, 2988, 2979, 2980 and 2981, of the revised statutes of the State of Texas, regulating the rate of interest, and defining usury, and to add thereto Art. 2981a: To regulate the rates of interest and prevent usury, and to repeal an 'Act to be entitled an act to define and punish usury,' passed at the regular session of the Twenty-second Legislature, and all laws and parts of laws in conflict with the provisions of this act.

Section 1. Be it enacted by the Legislature of the State of Texas, that article 2976, 2977, 2978, 2979 and 2980, title 54, of the revised statutes of the State of Texas, be and they hereby are so amended, and article 2981a so added thereto that the same shall hereafter read as follows:

Article 2976, On all written contracts ascertaining the sum payable, when no specified rate of interest is agreed upon by the parties to the contract, interest shall be allowed at the rate of six per cent per annum from and after the time when the sum is due and payable.

Article 2977. On all open accounts, when no specified rate of interest is agreed upon by the parties interest shall be allowed at the rate of six per cent per annum from the first day of January, after the same are made.

Article 2978.

The parties to any written contract may agree to and stipulate for any rate of interest not exceeding 10 per cent per annum on the amount of the contract.

Article 2979.

All written contracts whatsoever which may in any way, directly or indirectly, violate the preceding article by stipulating for a greater rate of in-

terest than 10 per cent per annum shall be void and of no effect for the amount or value of the interest only; but the principal sum of money or value of the contract may be received and recovered.

Article 2980.

All judgments of the several courts of this state shall bear interest at the rate of 6 per cent, per annum from and after date of the judgment, except where the contract upon which the judgment is founded bears a specified interest greater than 6 per cent. per annum and not exceeding 10 per cent. per annum, in which case the judgment shall bear the same rate of interest specified in such contract and after the date of such judgment.

Article 2981a.

If usurious interest, as defined by the preceding articles, shall hereafter be received or collected, the person or persons paying the same, or their legal representatives may by an action of debt, instituted in any court of this State having jurisdiction thereof, within two years after such payment, recover from the person, firms or corporation receiving the same double the amount of the interest so received or collected.

Section 2.

"An act to be entitled an act to Define and Punish Usury" passed at the regular session of the Twenty-second Legislature, and all other laws and parts of laws in conflict with the provisions of this act be and the same are hereby repealed.

Section 3.

The fact that the laws of Texas regulating the rate of interest and defining usury are in great confusion and daily liable to work hardships on the people, and the necessity of putting into immediate effect the provisions of the recent amendment to the Constitution creates an emergency and imperative public necessity requiring bills to be read on three several days be suspended and that this act take effect and be in force from and after its passage, and said rule is suspended and it is so enacted.

Senator Burney moved to reconsider the vote by which Senate Bill No. 18 had passed and lay that motion on the table.

The motion to table was adopted.

Senator Kimbrough called up Senate Bill No. 16, entitled, "An act to protect material men, contractors, sub-contractors, mechanics, operatives, book-keepers, clerks and labor-

ers who perform labor in mill, factory, shop, store and mines, office or farm, against the failure of owners, contractors or agents to pay their wages, and provide a lien for such wages."

On second reading.

Bill read.

Senator Glasscock offered the following:

Amend section 1 by inserting after the last word "any" in line 4, the words "building or other improvement or."

Adopted.

Senator Searcy offered the following:

Amend section 1 by adding that the lien herein provided for shall have no effect until the person or persons claiming the same shall have filed with the county clerk of the county where the property sought to be charged with the lien is situated his claim which shall be recovered as now provided for the record of chattel mortgages.

Senator Stephens moved that further consideration of this bill be suspended and the bill lie on the table subject to call.

Senators Glasscock, Tyler and Seale offered the following amendments to be spread upon the Journal and to come up with the bill—which was ordered:

Amend by adding the following as section 7 and change section 7 in bill to No. 8 and section 8 to No. 9:

When the owner or his agent is notified that he may retain from any money due or to become due the original contractor an amount sufficient to pay all demands that are or will become due such mechanics, workmen, sub-contractors or other persons so notifying him, and may pay over the same, to the person entitled thereto. In case the amount due the original contractor and the 20 per cent. in section 6 provided, is not sufficient to pay such persons so entitled in full he shall pay all claims for mechanical and other labor in full if the amount due the contractor and the said 20 per cent. is sufficient, if not then pro rata, but if more than sufficient, the balance shall be divided and paid to such other persons, pro rata in proportion to the amounts due them respectively at the time of such payment.

Glasscock.

Amend section 1 by adding thereto the following:

Provided that nothing in this act

shall be construed to create any lien for the construction of any building or improvement exceeding the contract price agreed upon by the owner and the original contractor.

Tyler.

"Amend by striking out section 7.

Seale

On motion of Senator Kearby, Senate bill No. 29, entitled An Act to amend articles 3227, 3228, 3229, 3230, 3231, 3232, 3233, 3234, 3235, 3236, 3237, 3238, 3239, 3239a, 3239b, 3239c, title 63, of the revised civil statutes of the State of Texas.

Was taken upon on second reading.

Bill read.

Senator Page offered the following:

Amend section 1 line 16 by inserting after the word "or" the following: "Twenty-five voters in any" and by inserting in line 16 after the word "country" the following "less than a justices precinct."

Senator Seale moved that the Senate stand adjourned to tomorrow morning at 9 o'clock.

Lost by the following vote:

YEAS—13.

Atlee,	O'Neal,
Carter,	Seale,
Finch,	Searcy,
Glasscock,	Sims,
Harrison,	Tyler,
Ingram,	Weisiger.
Kimbrough,	

NAYS—15.

Clark,	McKinney,
Clemens,	Mott,
Crane,	Potter,
Cranford,	Page,
Frank,	Pope,
Johnson,	Stephens,
Kearby,	Townsend.
Lubbock,	

Senator Page's amendment was lost by the following vote:

YEAS—13.

Clark,	Lubbock,
Cranford,	McKinney,
Crane,	Mott,
Frank,	O'Neal,
Ingram,	Page,
Kearby,	Potter.
Stephens.	

NAYS—16.

Atlee,	Pope,
Carter,	Searcy,
Clemens,	Seale,
Finch,	Sims,
Glasscock,	Simkins,
Harrison,	Townsend.
Johnson,	Tyler.
Kimbrough,	Weisiger.

Senator Kearby offered the following: Amend section 1, so that the same shall hereafter read as follows:

Section 1. Be it enacted by the Legislature of the State of Texas that articles 3227, 3228, 3229, 3230, 3231, 3232, 3233, 3234, 3235, 3236, 3237, 3238, 3239, of the revised civil statutes of the State of Texas as amended by act of April 1, 1887, page 96, and articles 3239a as amended by act of April 1, 1887, page 96, and articles 3239(b) as amended by act of April 14, 1883, page 110, and article 3239(c), as amended by act of March 20, 1879, page 41, and April 17, 1879, page 99, be so amended as to hereafter read as follows:

Senator Carter offered the following:

Substitute by striking out the words "revised civil statutes of the State of Texas" in the caption and the words "Be it enacted," in line 1, Section 1.

Senator Kearby made the point of order that the amendment of Senator Carter was out of order as it was not germane to the bill.

Sustained by the chair.

On motion of Senator Kimbrough, the Senate adjourned to tomorrow morning 9:30 o'clock,

EIGHTEENTH DAY.

SENATE CHAMBER,
TWENTY-SECOND LEGISLATURE,
Austin, Saturday, April 2, 1892. }

Senate met pursuant to adjournment.

President Pro Tem Frank in the chair.

Roll called.

Quorum present.

The following Senators answering to their names:

PRESENT—27.

Atlee,	McKinney,
Burney,	Mott,
Clark,	O'Neal,
Clemens,	Potter,
Crane,	Page,
Carter,	Seale,
Cranford,	Searcy,
Finch,	Simkins,
Frank,	Stephens,
Garwood,	Sims,
Ingram,	Tyler,
Johnson,	Townsend,
Kearby,	Weisiger.
Lubbock,	

ABSENT—4

Glasscock,	Kimbrough,
Harrison,	Pope.

Prayer by the chaplain, Dr. Smoot.

Pending reading of the Journal on motion of Senator Clemens further reading was dispensed with.

The following reports were presented by their respective committees:

COMMITTEE ROOM, }
Austin, April 1, 1892. }

Hon. Geo. C. Pendleton, President of the Senate:

Sir—Your committee on Enrolled Bills have carefully examined and compared Senate bill No. 27 being "An act to organize and establish the Twenty-first judicial district, to fix the times of holding courts therein and to repeal all laws and parts of laws in conflict therewith,"

And find the same correctly enrolled, and have this day, at 4:20 o'clock p. m. presented the same to the governor for his signature. Crane, Chairman.

COMMITTEE ROOM. }
Austin, April 1, 1891. }

Hon. Geo. C. Pendleton, President of the Senate:

Sir—Your committee on Engrossed Bills have carefully examined and compared Substitute Senate bill No. 18 being "An act to divide the State of Texas into three supreme Judicial districts and to provide for and establish a Court of Civil Appeal in each of said Districts, and to prescribe the times for holding court in each of said districts,

And find the same correctly engrossed. Carter, Chairman.

On motion of Senator Carter the